

II. In the Claims (Marked Version)

Please cancel Claim 2 without prejudice or disclaimer. Such cancellation is not being made in response to any prior art. Nor are Applicants relinquishing scope because of prior art.

Please add the following Claims:

7. The implantation device of Claim 1 wherein the profile of the hollow needle (2) is

part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of holding an implant (8) upon preloading, characterized in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6), the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.

10. A preloadable implantation device (1) comprising a hollow needle (2) and a body (3) adjoining the needle, the body (3) comprising an elongated part (4) extending along the same axis as the needle (2), a plunger (5) that can be displaced within the elongated part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of containing an implant (8), characterized in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6), the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.

II. In the Claims (Marked Version)

Please cancel Claim 2 without prejudice or disclaimer. Such cancellation is not being made in response to any prior art. Nor are Applicants relinquishing scope because of prior art.

Please add the following Claims:

JK

7. The implantation device of Claim 1 wherein the profile of the hollow needle (2) is chamfered.

8. The implantation device of Claim 7 wherein the profile of the plunger (5) is chamfered, whereby the profile of the needle (2) and the plunger (5) coincide.

9. A preloadable implantation device (1) comprising a hollow needle (2) and a body (3) adjoining the needle, the body (3) comprising an elongated part (4) extending along the same axis as the needle (2), a plunger (5) that can be displaced within the elongated part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of holding an implant (8) upon preloading, characterized in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6), the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.

B3

10. A preloadable implantation device (1) comprising a hollow needle (2) and a body (3) adjoining the needle, the body (3) comprising an elongated part (4) extending along the same axis as the needle (2), a plunger (5) that can be displaced within the elongated part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of containing an implant (8), characterized

USSN 09/544683

4

cr
ca 12
B3

in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6), the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.

Please amend the claims as follows:

1. (Amended) A[n] preloadable implantation device (1) comprising a hollow needle (2) and a body (3) adjoining the needle, the body (3) comprising an elongated part (4) extending along the same axis as the needle (2), a plunger (5) that can be displaced within the elongated part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of holding an implant (8), characterized in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6) and is closed from the outside after preloading, the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.
3. (Twice Amended) The implantation device of [c]Claim 1, further comprising and implant (8) held in chamber (7).
4. (Amended) [An implantation device according to] The implantation device of [c]Claim 3, wherein said implant is a hormonal implant.
5. (Twice Amended) [An implantation device according to] The implantation device of [c]Claim [2] 7, further comprising an implant (8) held in chamber (7).
6. (Amended) [An implantation device according to] The implantation device of [c]Claim 5, wherein said implant is a hormonal implant.

III. Remarks

Claims 1-6 stand rejected under 35 USC §102(b) as being anticipated by U.S. Pat. No. 5,405,324 to Wiegerinck (hereinafter referred to as the '324 patent). The Examiner contends that the '324 patent discloses an implantation device, comprising a hollow needle and a body adjoining the needle, the body comprising an elongated part extending along the same axis as the needle, a plunger that can be displaced within the elongated part and the needle, the periphery of the plunger defining a channel in the elongated part and the chamber capable of holding an implant characterized in that the chamber is positioned radially outside the channel and has a directly or indirectly open connection to the channel, the plunger being capable of closing off and opening up the chamber by being displaced. Further, the Examiner contends that the implantation device has a chamfered tip where the plunger has a chamfered tip profile capable of blending with the needle tip profile.

Applicants have responded by amending Claim 1 to indicate that the chamber of the embodiment claimed in Claim 1 is closed from the outside after preloading. The '324 patent does not disclose a device that is closed to the outside. Accordingly, Applicants respectfully request removal of the rejection and allowance of Claim 1 and its dependant Claims to issue.

Applicants have further added new Claims 9 and 10. New Claim 9 specifically claims another preloadable embodiment of the present invention. The '324 patent does not disclose the embodiment of Claim 9. The '324 patent does not disclose a chamber (7)

USSN 09/544683

for an implant (8) of the present invention. The '324 patent discloses a cup shaped cavity (3) having an opening in the bottom thereof which gives access to the bore (4) which is in line with the hollow needle (1) with the same diameter. (Column 5, lines 63-67 of the '324 patent). The cup shaped cavity (3) of the '324 patent is used, as is referenced in the instant application, of Applicants invention, for loading an implant or medicant in the chamber during operation of the device for implantation into the patient. The chamber (7) of the instant application is specifically claimed as being capable of holding an implant. A definition for holding an implant can be found on page 5 of the originally submitted application lines 21-26 wherein it states that "the implant contained therein, i.e., held, can be displaced into the channel on or after the moment that the required space therein has become available by withdraw of the plunger." The device of the '324 patent does not 'hold' the implant. Accordingly, the '324 patent does not anticipate the devices of the instant application. There are distinct differences. Accordingly, Applicants respectfully request allowance of Claim 9.

New Claim 10 claims another embodiment of the present invention and specifies that the implant is contained in the chamber. The '324 patent does not disclose a device where the implant is contained, i.e., held, within the chamber. The '324 patent discloses a device wherein the implant is set in the chamber, but is not contained. Accordingly, new Claim 10 is not anticipated by the '324 patent. Applicants respectfully request allowance of Claim 10.

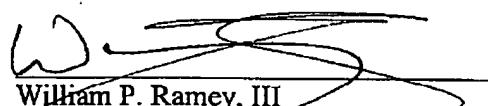
IV. Conclusion

USSN 09/544683

Applicants respectfully request reconsideration of the rejection in light of this response. Applicants have amended Claim 1 and added new Claims 9 and 10. The application is believed in a condition for allowance and Applicants respectfully request such action. Please call the below undersigned attorney for any assistance in securing allowance of this application. Please charge deposit account number 02-2334 for any required fees.

Date: June 17, 2002

Sincerely,



William P. Ramey, III
Reg. No. 44,295

Akzo Nobel Patent Department
Intervet, Inc.
405 State Street
P.O. Box 318
Millsboro, DE 19966
Tel: (302) 933-4034
Fax: (302) 934-4305

USSN 09/544683

8